

FILED
5/6/20 3:13 pm
CLERK
U.S. BANKRUPTCY
COURT - WDP**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:	:	Case No.:	19-23752-GLT
	:	Chapter:	13
Martin J Viale	:		
Donna M. Viale	:		
	:	Date:	5/6/2020
<i>Debtor(s).</i>	:	Time:	10:00

PROCEEDING MEMO

MATTER: #56 - Motion for Relief from Automatic Stay by Nationstar Mortgage, LLC
#61 - Response by Debtor

APPEARANCES:

Debtor:	Brent Lemon
Trustee:	Owen Katz
Nationstar:	Mark Pecarchik

NOTES: (10:09)

Pecarchik: There have been a lack of payments and as of today we're looking at over \$4,000 owed to the bank. This is the 5th bankruptcy the debtors have filed, they first filed in June 2012. The mortgage property has no equity, and there is no adequate protection.

Lemon: The debtors have made above-plan payments and intend to keep it up. We're requesting an opportunity to cure the plan arrears.

Court: Why are they hanging on to this property if it's not their primary residence?

Lemon: It's a rental property, and they derive income from it.

Court: What is the prospect of them curing the arrears?

Katz: Plan arrears though the end of April are \$14,250, and we haven't received a payment in May.

Lemon: Debtor husband is a construction worker and has a realtor's licence, and with everything going on their income has taken a hit.

Court: But the debtors were having difficulty with the case prior to the pandemic. If there's a means to cure, I would be inclined to hear it but the plan payments are nearly \$5,000. Would you be amenable to a drop dead order?

Lemon: If that's what we need to have an opportunity to cure.

Pecarchik: With this particular case, due to the history and the significant arrears, I'm not sure a drop dead would cut it.

Court: This is not the debtors' residence, and though there is income derived from the property it doesn't seem like the property is necessary for an effective reorganization. I do see a basis for stay relief. However, it does not appear any state foreclosures are imminent, so I see no reason to give the debtors some time to make a good faith effort to cure. Attny Pecarchick, please draft a drop-dead order that provides for 362(d)(4) in rem relief upon a further default. Then circulate it, and file it under a COC that provides for monthly payments of at least \$4,950.00.

Pecarchik: I will do that.

OUTCOME:

1. Nationstar Mortgage, LLC's *Motion for Relief from Automatic Stay* [Dkt. No. 56] is GRANTED under modified terms with a drop-dead provision.
2. On or before May 20, 2020, the parties shall submit a proposed form of order resolving the motion under a COC. [Text Order to Issue]

DATED: 5/6/2020